

**BEFORE THE
CALIFORNIA BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

DARRICK WILLIAM PROEHL, DPM,)
Podiatrist License No. E 5140,)

Respondent.)
_____)

File No. 500-2016-000317

ORDER VACATING DEFAULT DECISION AND ORDER

The California Board of Podiatric Medicine (Board) issued a Default Decision and Order dated May 31, 2018, effective June 29, 2018, against Respondent Darrick William Proehl, DPM (Respondent) in the above-entitled matter. On June 8, 2018, Respondent a Notice of Motion to Vacate Default Decision, which was denied on June 27, 2018 (Order). Subsequently, Respondent filed a Petition for Writ of Mandate (Petition) with the Superior Court of California, County of Sacramento, Case No. 34-2018-80002970.

In accordance with the June 3, 2019 Ruling on Submitted Matter re: Petition for Writ of Mandate issued by the Superior Court, the Board hereby vacates and sets aside its June 27, 2018 Order. The Accusation filed against Respondent shall be set for hearing in accordance with Chapter 5 of the Administrative Procedure Act, Government Code section 11500 et seq.

IT IS SO ORDERED this 10th day of July, 2019.

BOARD OF PODIATRIC MEDICINE

By: )

JUDITH MANZI, DPM, President
CALIFORNIA BOARD OF PODIATRIC
MEDICINE

**BEFORE THE
CALIFORNIA BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

DARRICK WILLIAM PROEHL, DPM,

File No. 500-2016-000317

Podiatrist License No. E 5140,

Respondent.

**ORDER DENYING MOTION TO VACATE DEFAULT DECISION AND
ORDER**

The California Board of Podiatric Medicine (Board) issued a Default Decision and Order dated May 31, 2018, against Respondent Darrick William Proehl, DPM (Respondent), with an effective date of June 29, 2018.


On June 8, 2018, Arthur W. Curley, Esq., filed on behalf of Respondent a Motion to Vacate Default Decision and Order.

Respondent's Motion to Vacate Default Decision and Order having been read and considered and good cause for the granting of the Motion not having been shown, the Motion is hereby denied. Accordingly, the Default Decision and Order shall remain effective on June 29, 2018.

IT IS SO ORDERED this 27th day of June 2018.

BOARD OF PODIATRIC MEDICINE

By: _____


MICHAEL A. ZAPF, DPM, President
CALIFORNIA BOARD OF PODIATRIC
MEDICINE

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 EMILY L. BRINKMAN
Deputy Attorney General
4 State Bar No. 219400
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3374
6 Facsimile: (415) 703-5843
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF PODIATRIC MEDICINE
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

Case No. 500-2016-000317

13 **DARRICK WILLIAM PROEHL, DPM**

**DEFAULT DECISION
AND ORDER**

14 **555 West Middlefield Road, #F311**
15 **Mountain View, CA 94043**

[Gov. Code §11520]

16 **Podiatrist License No. E 5140**

17 Respondent

18
19 **FINDINGS OF FACT**
20

21 1. On or about October 28, 2016, an employee of the Board of Podiatric Medicine of
22 California (Board), served by Certified Mail a copy of the Accusation No. 600-2016-000317,
23 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
24 sections 11507.5, 11507.6, and 11507.7 on Darrick William Proehl, D.P.M. (Respondent) at
25 Respondent's address of record with the Board, which was 15100 Los Gatos Blvd, Suite 4, Los
26 Gatos, Ca 95032. On March 1, 2018, the certified mail was stamped "Return to Sender, Not
27 Deliverable as Addressed, Unable to Forward." On or about March 2, 2018, an employee of the
28 Board served by Certified Mail a copy of the Accusation No. 600-2016-000317 and related

1 documents on Respondent at a second address, 555 W. Middlefield Road, #F311, Mountain
2 View, CA 94043. On April 17, 2018, the certified mail was returned to the Board, stamped
3 "Return to Sender, Not Deliverable as Addressed, Unable to Forward." (Exhibit Package, Exhibit
4 1¹: Accusation, the related documents, Declarations of Service, and returned envelopes.)

5 2. On March 27, 2018, an employee of the Attorney General's Office served a Courtesy
6 Notice of Default on Respondent by certified mail at his address of record, 555 W. Middlefield
7 Road, #F311, Mountain View, Ca 94043, advising Respondent of the Accusation, and providing
8 Respondent with an opportunity to request relief from default. Respondent has failed to file a
9 Notice of Defense to date. (Exhibit Package, Exhibit 2: Courtesy Notice of Default, proof of
10 service.)

11 FINDINGS OF FACT

12 I

13 Complainant Brian Naslund is the Executive Officer of the Board of Podiatric Medicine of
14 California, Department of Consumer Affairs. The charges and allegations in Accusation No. 500-
15 2016-000317 were at all times brought and made solely in the official capacity of the Board's
16 Executive Officer.

17 II

18 On or about May 27, 2014, the Board issued Doctor of Podiatric Medicine License No. E
19 5140 to Respondent. The License is current with an expiration date of March 31, 2020. (Exhibit
20 Package, Exhibit 3: Certificate of License.)

21 III

22 On October 28, 2018, Respondent was served with an Accusation, alleging causes for
23 discipline against Respondent. The Accusation and accompanying documents were duly served
24 on Respondent. A Courtesy Notice of Default was thereafter served on Respondent. Respondent
25 failed to file a Notice of Defense.

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28 ¹ The evidence in support of this Default Decision and Order is contained in the "Exhibit
Package."

IV

The allegations of the Accusation are true as follows:

In August 2017, Respondent underwent a psychiatric evaluation conducted by a board certified psychiatrist. The evaluator concluded that Respondent has an Alcohol Use Disorder which impairs his ability to safely engage in the practice of medicine, as this illness has not been adequately treated. Respondent's Alcohol Use Disorder renders him unable to safely practice medicine and poses a potential risk to the public health, safety and welfare. (Exhibit Package, Exhibit 4: Declaration of J.M.G., M.D..)

V

On or about December 27, 2015, Respondent was arrested for violating California Vehicle code section 23152(a), driving under the influence of alcohol, after being involved in two hit and run collisions. Respondent's chemical breath test results were 0.18% and 0.17% breath alcohol concentration. (Exhibit Package, Exhibit 5: certified, redacted copy of California Highway Patrol arrest report dated December 27, 2015.)

On or about October 7, 2016, Respondent was convicted of violating Vehicle Code section 23152(b), driving under the influence with a blood alcohol higher than 0.08% and Vehicle Code section 20002(a), hit and run. (Exhibit Package, Exhibit 6: Certified copy of El Dorado County Superior Court Case No. P16CRM0454 document.)

DETERMINATION OF ISSUES

Based on the foregoing Findings of Fact, Respondent's conduct constitutes cause for discipline within the meaning of Business and Professions code sections 822 [unable to practice safely due to mental and/or physical illness], 2234 and/or 2236 [substantially-related conviction.]

ORDER

IT IS SO ORDERED that Podiatrist License No. E 5140, heretofore issued to Respondent Darrick William Proehl, DPM, is revoked.

Respondent shall not be deprived of making a request for relief from default as set forth in Government Code section 11520, subdivision (c), for good cause shown. However, such showing must be made in writing by way of a motion to vacate the default decision and directed to the

1 Medical Board of California at 2005 Evergreen Street, Suite 1200, Sacramento, CA 95815 within
2 seven (7) days after service of the Decision on Respondent.

3 This Decision shall become effective on June 29, 2018 at 5:00 p.m.

4 It is so ORDERED May 31, 2018

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6 BOARD OF PODIATRIC MEDICINE
7 DEPARTMENT OF CONSUMER AFFAIRS
8 STATE OF CALIFORNIA

9 By



BRIAN NASLUND
Executive Officer

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XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
EMILY L. BRINKMAN
Deputy Attorney General
State Bar No. 219400
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5742
Facsimile: (415) 703-5843
E-mail: Emily.Brinkman@doj.ca.gov
Attorneys for Complainant

BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 500-2016-000317

DARRICK WILLIAM PROEHL, DPM
15100 Los Gatos Blvd, Suite 4
Los Gatos, CA 95032

ACCUSATION

Podiatrist License No. E 5140

Respondent.

Complainant alleges:

PARTIES

1. Brian Naslund (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board of Podiatric Medicine.

2. On or about May 27, 2014, the Board of Podiatric Medicine issued Doctor of Podiatric Medicine Number E 5140 to Darrick William Proehl, DPM (Respondent). The Podiatrist License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2018, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Podiatric Medicine (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2222 of the Code states the California Board of Podiatric Medicine shall
2 enforce and administer this article as to doctors of podiatric medicine. Any acts of unprofessional
3 conduct or other violations proscribed by this chapter are applicable to licensed doctors of
4 podiatric medicine and wherever the Medical Quality Hearing Panel established under Section
5 11371 of the Government Code is vested with the authority to enforce and carry out this chapter
6 as to licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that
7 same authority as to licensed doctors of podiatric medicine.

8 The California Board of Podiatric Medicine may order the denial of an application or issue
9 a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension,
10 or other restriction of, or the modification of that penalty, and the reinstatement of any certificate
11 of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction
12 with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373,
13 and 11529 of the Government Code. For these purposes, the California Board of Podiatric
14 Medicine shall exercise the powers granted and be governed by the procedures set forth in this
15 chapter.

16 5. Section 2497 of the Code states:

17 "(a) The board may order the denial of an application for, or the suspension of, or the
18 revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric
19 medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in
20 accordance with Section 2222.

21 "(b) The board may hear all matters, including but not limited to, any contested case or may
22 assign any such matters to an administrative law judge. The proceedings shall be held in
23 accordance with Section 2230. If a contested case is heard by the board itself, the administrative
24 law judge who presided at the hearing shall be present during the board's consideration of the case
25 and shall assist and advise the board."

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1 6. Section 2234 states in relevant part:

2 “The board shall take action against any licensee who is charged with unprofessional
3 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
4 limited to, the following:

5 “ ”

6 “(e) The commission of any act involving dishonesty or corruption that is substantially
7 related to the qualifications, functions, or duties of a physician and surgeon.”

8 “(f) Any action or conduct that would have warranted the denial of a certificate.”

9 7. Section 822 of the Code states:

10 “If a licensing agency determines that its licentiate’s ability to practice his or her profession
11 safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the
12 licensing agency may take action by any one of the following methods:

13 “(a) Revoking the licentiate’s certificate or license.

14 “(b) Suspending the licentiate’s right to practice.

15 “(c) Placing the licentiate on probation.

16 “(d) Taking such other action in relation to the licentiate as the licensing agency in its
17 discretion deems proper.

18 “The licensing section shall not reinstate a revoked or suspended certificate or license until
19 it has received competent evidence of the absence or control of the condition which caused its
20 action and until it is satisfied that with due regard for the public health and safety the person’s
21 right to practice his or her profession may be safely reinstated.”

22 8. Section 2236 of the Code states in pertinent part:

23 “(a) The conviction of any offense substantially related to the qualifications, functions, or
24 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
25 chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction
26 occurred.

27 “(b) The district attorney, city attorney, or other prosecuting agency shall notify the Division
28 of Medical Quality of the pendency of an action against a licensee charging a felony or

1 misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice
2 shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting
3 agency shall also notify the clerk of the court in which the action is pending that the defendant is a
4 licensee, and the clerk shall record prominently in the file that the defendant holds a license as a
5 physician and surgeon.

6 " "

7 "(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
8 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
9 shall be conclusive evidence of the fact that the conviction occurred."

10 COST RECOVERY

11 9. Section 2497.5 of the Code states:

12 "(a) The board may request the administrative law judge, under his or her proposed decision
13 in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of
14 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of
15 the investigation and prosecution of the case.

16 "(b) The costs to be assessed shall be fixed by the administrative law judge and shall not be
17 increased by the board unless the board does not adopt a proposed decision and in making its own
18 decision finds grounds for increasing the costs to be assessed, not to exceed the actual and
19 reasonable costs of the investigation and prosecution of the case.

20 "(c) When the payment directed in the board's order for payment of costs is not made by the
21 licensee, the board may enforce the order for payment by bringing an action in any appropriate
22 court. This right of enforcement shall be in addition to any other rights the board may have as to
23 any licensee directed to pay costs.

24 "(d) In any judicial action for the recovery of costs, proof of the board's decision shall be
25 conclusive proof of the validity of the order of payment and the terms for payment."(e)(1) Except
26 as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who
27 has failed to pay all of the costs ordered under this section."(2) Notwithstanding paragraph (1),
28 the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the

1 license of any licensee who demonstrates financial hardship and who enters into a formal
2 agreement with the board to reimburse the board within one year period for those unpaid costs.

3 "(f) All costs recovered under this section shall be deposited in the Board of Podiatric
4 Medicine Fund as a reimbursement in either the fiscal year in which the costs are actually
5 recovered or the previous fiscal year, as the board may direct."

6 **FIRST CAUSE FOR DISCIPLINE**

7 (Mental or Physical Impairment)

8 10. Respondent is subject to disciplinary action under section 822 in that Respondent is
9 mentally and/or physically impaired and such impairment impacts patient safety. The
10 circumstances are as follows:

11 11. Respondent underwent a psychiatric evaluation in August 2017, conducted by board
12 certified psychiatrist J.M.G., M.D. Dr. J.M.G. interviewed Respondent on July 24, 2017 and
13 August 7, 2017. Dr. J.M.G. opined that Respondent suffers from major depressive disorder and
14 unspecified anxiety disorder; however, Respondent's depression and anxiety appear to be well-
15 managed by his current psychiatric regime. Dr. J.M.G. also diagnosed Respondent with alcohol
16 use disorder based on several factors.

17 12. Respondent was arrested on two separate occasions for alcohol related crimes.
18 Respondent told Dr. J.M.G. that he was arrested for domestic violence in 2012 but that the charge
19 was reduced to disturbing the peace. Respondent explained the event to Dr. J.M.G. by stating that
20 he and his girlfriend; now wife, had been out drinking when she stumbled and police thought the
21 two were fighting. Respondent was also arrested for driving under the influence and two counts
22 of hit and run on December 27, 2015. Respondent told Dr. J.M.G. that he did not realize how
23 intoxicated he was and neither he nor his wife were aware that he hit two vehicles. According to
24 California Highway Patrol Reports, Respondent's breath alcohol test result was 0.18% and 0.17%.
25 Respondent pled no contest to the charges on October 7, 2016. Respondent also informed Dr.
26 J.M.G. about an incident in 2016 where his wife called the police because she thought he was
27 suicidal. Respondent stated he was depressed and had been drinking but after being hospitalized
28 for a few days, doctors released him from Valley Medical Center.

1 13. Respondent also told Dr. J.M.G. that he attended The Camp, a substance abuse
2 treatment center, as an in-patient in April 2017 for 28 days; however, Respondent denied that he
3 was there for alcohol or substance abuse treatment and only to deal with his depression. Dr.
4 J.M.G. also noted that Respondent received a prescription for chlordiazepoxide while he was at
5 The Camp.¹

6 14. Dr. J.M.G. also administered psychological tests to Respondent that “suggest an
7 evaluation of his use of alcohol . . . his pattern is fairly often associated with episodes of serious if
8 not occasional uncontrolled chemical use.”

9 15. Dr. J.M.G.’s diagnosis is also based on his review of Respondent’s psychological
10 treatment records by two other providers. One of Respondent’s psychiatrists stated that
11 Respondent is a “borderline alcoholic” and made several recommendations that Respondent stop
12 drinking and seek treatment, but Respondent continued drinking.

13 16. Dr. J.M.G. also noted that, while he diagnosed Respondent’s alcohol use disorder as
14 mild, Respondent appeared to minimize his symptoms. Respondent was also vague as to use of
15 alcohol, the two alcohol-related arrests, and the alcohol related hospitalization, yet he was
16 completely clear about his mental health history.

17 17. Dr. J.M.G. opined that Respondent’s “Alcohol Use Disorder currently impacts his
18 ability to safely engage in the practice of medicine, as this illness had not been adequately
19 treated.” Additionally, Respondent’s Alcohol Use Disorder renders him unable to safely practice
20 medicine and poses a potential risk to the public health, safety, and welfare.

21 18. Respondent’s license is subject to discipline under section 822 of the Code in that,
22 due to a mental and/or physical illness, Respondent is unable, and/or impaired in his ability to
23 practice podiatric medicine with safety to the public.

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26 _____
27 ¹ Chlordiazepoxide is a benzodiazepine used to treat short term anxiety disorders. It is
28 also used to treat anxiety or withdrawal symptoms of alcoholism. It is classified as a dangerous
drug under section 4022.

SECOND CAUSE FOR DISCIPLINE

(Criminal Conviction)

19. Respondent is subject to disciplinary action for unprofessional conduct under sections 2234 and/or 2236 in that Respondent was convicted of a crime that is substantially related to the practice of podiatric medicine. The circumstances are as follows:

20. On or about December 27, 2015, at approximately 1:40 p.m. California Highway Patrol Officers were dispatched to reports of two different hit and run crashes that appeared to involve the same black Toyota pickup truck. Officers located the black Toyota pickup truck at a gas station with the driver and passenger still seated in the car. Officers identified the driver of the black Toyota pickup as Respondent by his California driver's license. Respondent denied being involved in any traffic collisions. The officer immediately noticed that Respondent's speech was slow, thick, and slurred, and his eyes were glassy and watery. Upon stepping out of the vehicle, the officer also noted that Respondent's balance was unsteady. The officer also observed damage to Respondent's vehicle consistent with both hit and run reports.

21. Respondent told the officer that he had several beers the night before but had not had anything to drink that day. The officer then administered several field sobriety tests, which indicated to the officer that Respondent was driving under the influence of alcohol. The officer arrested Respondent. The officer performed chemical breath tests on Respondent at approximately 3:27 p.m. and 3:30 p.m.. The results were 0.18% and 0.17% breath alcohol concentration.

22. On or about May 18, 2016, the El Dorado County District Attorney's Office filed a criminal complaint in the Superior Court, *People v. Darrick William Proehl*, Case No. P16CRM0454. The complaint charged Respondent with driving under the influence in violation of Vehicle Code section 23152(a) and (b), the special allegation of having a blood alcohol content higher than 0.15%, and two counts of hit and run in violation of Vehicle Code section 20002(a).

23. On or about October 7, 2016, Respondent pled no contest to driving under the influence with a blood alcohol higher than 0.08% and one count of hit and run. The remaining charges were dismissed. The Court placed Respondent on probation for 48 months, ordered him

1 to complete the three-month driving under the influence class, serve 10 days in jail (alternative
2 custody approved), and standard first offense driving under the influence terms, conditions, and
3 fines.

4 **PRAYER**


5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Board of Podiatric Medicine issue a decision:

7 1. Revoking or suspending Podiatrist License Number E 5140, issued to Darrick
8 William Proehl, DPM.;

9 2. Ordering Darrick William Proehl, DPM to pay the Board of Podiatric Medicine the
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 2497.5; and,

12 3. Taking such other and further action as deemed necessary and proper.
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14
15

16 DATED: February 8, 2018



17 BRIAN NASLUND
18 Executive Officer
19 Board of Podiatric Medicine
20 State of California
21 Complainant

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